

# CALIFORNIA STATE DEPARTMENT OF PUBLIC HEALTH

WALTER M. DICKIE, M.D., Director

## Weekly Bulletin



JUN 11 1938

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GUY P. JONES  
EDITOR

## Court Sustains Rabies Quarantine

At the request of the Los Angeles City Council, the Los Angeles County Board of Supervisors, Dr. George Parrish, health officer of Los Angeles, and Dr. J. L. Pomeroy, health officer of Los Angeles County, the California State Board of Public Health recently quarantined dogs within the city and part of the county of Los Angeles under the Rabies Quarantine Act of 1913.

An organization called The Tailwaggers Foundation, a corporation, promptly applied for an injunction, maintaining that a conflict existed between the act referred to and a dog license act of 1921. In a hearing before the Los Angeles superior court Judge Emmet H. Wilson handed down an opinion which stated that "a license tag is not an amulet which will immunize against disease" and in which the application for an injunction was denied and a temporary restraining order was dissolved. Because of its importance in sustaining health officers who endeavor to control rabies within their communities the opinion is reproduced here:

### OPINION No. 427355

In the Superior Court of the State of California, in and for the County of Los Angeles.

The Tailwaggers Foundation, a Corporation,  
Plaintiff, vs. Dr. J. L. Pomeroy, County Health Officer, et al., Defendants.

For Plaintiff—James B. Fredericks.

For Defendants—J. H. O'Connor, County Counsel,

and Beach Vasey, Deputy County Counsel, Ray L. Chesebro, City Attorney, Robert H. Patton and Wm. Christensen, Deputies City Attorney.

Amici curiae on behalf of defendants—U. S. Webb, Attorney General, and Bayard Rhone, Deputy Attorney General.

This action was commenced for the purpose of obtaining an injunction restraining the enforcement of two orders issued by the State Board of Health quarantining dogs, one including a large portion of the County of Los Angeles with the exception of territory within certain incorporated cities, and the other covering the City of Los Angeles. The orders purport to have been issued pursuant to the quarantine act (Stats. 1913, p. 783, ch. 369; 1 Deering's Gen. Laws, p. 143, act 360) and require all dogs, whether licensed or unlicensed, to be confined within an enclosure or on a leash.

The plaintiff corporation, alleging that it consists of 4500 dog owners who have procured licenses for their dogs as provided by law, argues that the quarantine act has been repealed by implication, in so far as licensed dogs are concerned, by a later statute relating to the licensing of dogs. (Stats. 1921, p. 1306, ch. 757; am. Stats. 1929, p. 1881, ch. 852; 1 Deering's Gen. Laws, p. 171, act 384.)

The prevalency or nonprevalency of rabies among dogs is not at the present time in issue. It will therefore not be necessary to consider any of the affidavits relating thereto or those giving the numbers of licensed and unlicensed dogs that have been found to be afflicted with rabies. A license tag is not an amulet which will immunize against disease. The need of protection to human beings from peripatetic dogs is no less if the dogs be licensed than if unlicensed.



The only question in the case is one of statutory construction. It is not contended that the quarantine orders were not regularly issued pursuant to the requirements of the statute of 1913, or that the orders are invalid or unenforceable, except upon the theory that said statute has been repealed by the statute of 1921 or by the amendments thereto.

It is a rule of statutory construction that the enactment of a law operates to repeal by implication all existing laws inconsistent with or repugnant to the latter, without a formal repealing clause, and where two acts passed at different times are not in terms incompatible with each other, yet if it is clearly evident that the last was intended as a revision of or a substitute for the first, it will repeal the first to the extent in which its provisions are revised or substituted. Another rule of construction is that repeals by implication are not favored and that the repugnancy of one statute to another should be very clear to warrant the court in holding that the one later in time repeals the older when it does not in terms purport so to do. Two statutes must be so construed, if possible, as to give effect to both if it can be done without destroying the evident intent and meaning of the later act.

The act of 1913 has for its purpose the prevention of the introduction of animal diseases dangerous to human beings into portions of the state not infected and to that end authorizes the State Board of Health to establish a quarantine against all animals living within such area as should be specified in the quarantine order. This act is a health and safety measure designed to protect human beings from rabies and other animal diseases. The act of 1921 prohibits the running at large of any dog unless it wears a license tag issued by the proper licensing authority of a city or a county. Nothing in this statute or in any of the amendments thereto purports to be a health measure, and the same contain no provisions relative to the prevention or eradication of disease. It is strictly regulatory, requiring all dogs to be licensed and providing for the impounding of any dog found running at large without a license tag. There is no manifestation of any intent on the part of the legislature to repeal or to modify the health and safety regulations contained in the statute of 1913. The preservation of the public health is one of the most important governmental functions and the rule against repeal by implication is particularly applicable where the result of such repeal would be to impair a settled prerogative of government. (County of Inyo v. Hess, 53 Cal. App. 415, 200 Pac. 373.) Section 4 of the act of 1921, as amended in 1929, declaring it to be unlawful to kill or to impound a dog, the owner of which has complied with that act, "except as otherwise provided herein," can not be construed as referring to or repealing any part of the act of 1913, but must be held to relate to those portions of the statute of 1921 which, in the cases therein mentioned, permit and authorize the killing of a dog by a person other than the owner.

It is true that dogs are property and that the owners have a property right therein, but, like other property, they must be kept by their owners in such man-

ner as that they will not become a menace to other animals or to human beings.

The act of 1913 being in full force and effect and no claim having been made that the quarantine orders are unnecessary or that the same are not in accord with that act, it is ordered that the several demurrers to the complaint be and they are sustained without leave to amend, the application for a preliminary injunction is denied, the temporary restraining order is dissolved, the order to show cause is discharged, and judgment is ordered in favor of the defendants.

Dated the 17th day of May, 1938.

EMMET H. WILSON, Judge.

### PSITTACOSIS CONTROL

In southern California, 62 shell parrakeet aviaries were inspected during April and 272 interstate shipments checked and approved. These shipments involved 3,643 shell parrakeets and 234 larger psittacine birds.

### GENERAL HEALTH CONDITIONS

Smallpox is the only reportable disease that was more prevalent during April than might be expected during this season of the year. Animal rabies, however, is epidemic in certain sections of the State. Nevertheless, this disease is less prevalent than during April of 1937.

### FOOD PRODUCTS DESTROYED

During April, almost 10 tons of frozen eggs unfit for human consumption were destroyed by the Bureau of Food and Drugs together with 300 dozen shell eggs and more than 930 pounds of other egg products. More than 20,000 gallons of substandard wine were destroyed because of their unfitness.

### HEALTH OFFICERS NEWLY APPOINTED

Dr. J. M. Brown has been appointed city health officer of Ferndale to succeed Dr. O. B. Barron.

Dr. H. W. Pasley has succeeded Dr. R. E. Allen as city health officer of Reedley.

Dr. John O. Raffety is now health officer of Yolo County with headquarters at Woodland. Dr. E. M. Bingham, formerly health officer of Yolo County, is now health officer of San Luis Obispo County, having succeeded Dr. Allen F. Gillihan, retired.

Mr. Louis Montella is city health officer of El Cajon having replaced Mr. Charles Tate.

"Health is the essential factor in productiveness, prosperity and happiness, and hence in the advancement of civilization."—Sir Frederick Treves.



### SMALLPOX IN THE SEVENTIES

The effectiveness of vaccination in the control of smallpox is brought sharply into focus through knowledge of the terrific damage inflicted by this disease in the days when vaccination was not carried on as a routine procedure in public health administration. The following report of the health officer of San Francisco in 1877, shows clearly that smallpox as it existed at that time constituted a major problem in public health (it should be noted here that in all of California, in 1937, there were reported 697 cases of smallpox with 3 deaths):

"From the 19th of May, 1876, to July 1, 1877, there were 1646 cases of smallpox reported at the health office. Of this number 898 were sent to the Twenty-sixth Street Hospital. Of the whole number 482 died—255 at the hospital and 227 in the city—the percentage of deaths at hospital being 28.4; in the city, 28.9. It must be remembered, however, that among the deaths in the city are included 60 Chinamen, reported after death. Of the 17 Chinamen who died at hospital a few were reported and the others discovered before death. As smallpox is much more fatal among children than adults, and as there are but few children among the Chinese, comparatively, the inference is natural and just that, in proportion to the number of cases, there were fewer deaths than among the whites. Certainly there could not have been less than 300 cases concealed by the Chinese, which, added to the entire number reported at the health office, would increase the total number of cases to 1946, exceeding the number reported during the epidemic of 1868 and 1869 by 37. At that time the estimated Chinese population was only 4000, and very few cases occurred among them. The cause and history of this epidemic is a matter of so much importance that I beg leave to reproduce and reiterate some of the views expressed by me in my report to the honorable board of health, September 12, 1876.

"On the 19th of May, 1876, the first case of smallpox was reported. Within a few days twelve other cases were reported in various portions of the city, occurring for the most part in respectable families, without any known exposure, and of a very severe type. Satisfied in my own mind that all unprotected persons in the city were liable to contract the disease by the same insidious and unknown cause that had stricken down the thirteen reported cases, I then stated to your honorable body that I believed we were in danger of an alarming epidemic, and advised the appointment of public vaccinators. The idea of an epidemic was so ridiculed by correspondents of the press and others, improper motives even being imputed to me for expressing, as health officer, my fear of such a contingency, that the people soon ceased to apply to the vaccinators in such numbers as to warrant a continuance of their commissions, and they were accordingly withdrawn in two weeks. In the meantime vaccination was continued at the health office daily, and up to the 1st of July about 8000 persons had been vaccinated under the auspices of this department. Even on the 1st of July it was generally denied to be epidemic, not-

withstanding the fact that 139 cases had been reported, 72 of which had occurred in the last twelve days of June. From this time on the disease increased so rapidly that its existence as an epidemic soon became patent to all. Vaccinators were again appointed, and such was the eagerness for vaccination that it was impossible for a few days to obtain a sufficient quantity of pure virus to vaccinate all the applicants."

### SYMPOSIUM ON HEALTH EDUCATION

A symposium on health problems in education will be held in conjunction with the meeting of the American Medical Association in the auditorium of the San Francisco Health Department Building, June 14, 1938. It is sponsored by the Joint Committee on Health Problems of the National Education Association and the American Medical Association Sections on Pediatrics, Preventive and Industrial Medicine and Public Health, Ophthalmology and Laryngology, Otology and Rhinology. All individuals professionally concerned with school health are invited to attend—school administrators, counsellors, school physicians, dentists and nurses, physical educators, teachers of hygiene and related life sciences, teachers of home economics and social studies. Following is the program:

June 14, 2 p.m. City Health Building, Civic Center,  
San Francisco

Presiding: Dr. Robert T. Legge, University Physician,  
University of California, Berkeley, California.

"Looking Backward in School Health"—Thomas D. Wood, New York.

"Relationships of Health Service in the Schools to Health Education and the General Curriculum"—Edna W. Bailey, Berkeley, California.

Discussion to be opened by Harold H. Mitchell, Astoria, N. Y., and W. H. Orion, Sacramento, California.

"The Physician's Contribution to Education: The Educator's Point of View"—George A. Rice, Oakland, California.

"The School Physician's Point of View"—Arthur E. Wade, Seattle, Washington.

"The Practicing Physician's Point of View"—Burt R. Shurly, Detroit, Michigan.

"Better Vision for School Children"—C. S. O'Brien, Iowa City, Iowa.

Discussion to be opened by William H. Crisp, Denver, Colorado.

"Qualifications for Teaching Health"—Thomas A. Storey, Stanford University, Palo Alto, California.

Discussion to be opened by William P. Shepard, San Francisco.

"How Shall Sex Be Taught in the Schools?"—Thurman B. Rice, Indianapolis, Indiana.

Discussion to be opened by Roswell H. Johnson, Los Angeles, California.

"Audiometers and Their Place in the School Program"—I. H. Jones and Vern O. Knudsen, Los Angeles, California.

Discussion to be opened by Austin A. Hayden, Chicago, Illinois.

"There is a budget which we pay with frightful regularity; it is that of unnecessary disease and premature death."—Irving Fisher.



## MORBIDITY

Complete Reports for Following Diseases for Week Ending  
May 14, 1938

## Chickenpox

973 cases: Alameda County 8, Alameda 1, Albany 9, Berkeley 39, Oakland 37, Piedmont 1, San Leandro 1, Contra Costa County 1, Concord 2, Martinez 1, Pittsburg 6, Richmond 2, Fresno County 9, Fresno 5, Kern County 5, Taft 1, Kings County 4, Los Angeles County 72, Alhambra 1, Beverly Hills 1, Burbank 10, Compton 2, Culver City 2, El Monte 1, El Segundo 3, Glendale 33, Glendora 1, Hermosa 1, Huntington Park 3, Inglewood 1, Long Beach 25, Los Angeles 127, Manhattan 4, Monrovia 15, Montebello 1, Pasadena 31, Pomona 2, Redondo 2, San Gabriel 1, Santa Monica 6, South Pasadena 1, Lynwood 1, Hawthorne 1, South Gate 3, Maywood 1, Madera County 4, Madera 1, Chowchilla 1, Marin County 1, San Rafael 2, Sausalito 2, Merced County 5, Merced 1, Monterey County 2, King City 4, Salinas 1, Orange County 5, Anaheim 4, Brea 1, Fullerton 1, Santa Ana 15, Seal Beach 2, Laguna Beach 4, Riverside County 11, Riverside 11, Sacramento County 1, Sacramento 37, North Sacramento 4, San Bernardino County 8, Ontario 1, Redlands 4, San Bernardino 1, San Diego County 1, Coronado 23, Oceanside 1, San Diego 36, San Francisco 84, San Joaquin County 52, Stockton 45, San Luis Obispo 6, Daly City 10, San Mateo 1, Santa Barbara County 8, Santa Barbara 16, Santa Maria 19, Santa Clara County 4, Gilroy 2, Palo Alto 4, Fairfield 1, Vallejo 7, Stanislaus County 2, Modesto 2, Turlock 1, Tehama County 6, Red Bluff 1, Trinity County 1, Tulare County 2, Dinuba 3, Exeter 2, Porterville 1, Ventura County 8, Ventura 1, Ojai 4, Yolo County 1.

## Diphtheria

25 cases: Richmond 1, Fresno County 1, Fresno 1, Los Angeles County 3, Compton 1, Los Angeles 7, Pomona 1, Redondo 2, Merced County 1, Riverside County 2, San Bernardino County 1, San Diego 1, San Jose 1, Santa Cruz County 1, Wheatland 1.

## German Measles

67 cases: Albany 1, Berkeley 3, Oakland 1, Fresno County 5, Los Angeles County 2, Long Beach 4, Los Angeles 7, Pasadena 1, South Gate 1, Anaheim 1, Santa Ana 1, Placentia 1, San Diego County 1, Oceanside 1, San Diego 2, San Francisco 33, San Joaquin County 2.

## Influenza

42 cases: Berkeley 2, Placerville 2, Los Angeles County 5, El Monte 1, Los Angeles 6, Madera County 16, San Francisco 2, Lodi 1, San Luis Obispo County 6, San Jose 1.

## Malaria

2 cases: Fresno County 1, Santa Ana 1.

## Measles

753 cases: Oakland 5, Contra Costa County 1, Placerville 51, Fresno County 17, Fresno 2, Kingsburg 1, Glenn County 17, Orland 6, Kern County 50, Bakersfield 21, Delano 3, Kings County 23, Hanford 8, Lemoore 1, Los Angeles County 13, Beverly Hills 1, Hermosa 1, Huntington Park 2, La Verne 15, Long Beach 17, Los Angeles 47, Pasadena 1, Pomona 13, Redondo 2, Madera County 31, Madera 3, Chowchilla 6, Marin County 1, Mendocino County 1, Merced County 19, Gustine 2, Livingston 1, Monterey County 1, Orange County 34, Anaheim 4, Brea 1, Fullerton 1, Santa Ana 15, Laguna Beach 1, Placentia 1, Riverside County 26, Blythe 11, Riverside 17, Sacramento County 10, Sacramento 31, San Bernardino County 12, Colton 1, Redlands 1, San Bernardino 8, San Diego County 8, La Mesa 2, National City 4, San Diego 83, San Francisco 6, Lodi 1, Stockton 5, San Luis Obispo County 2, Santa Barbara County 1, Santa Barbara 1, Santa Clara County 5, Stanislaus County 5, Modesto 1, Newman 19, Turlock 3, Tulare County 11, Porterville 1, Ventura County 23, Fillmore 1, Oxnard 4, Santa Paula 5, Yolo County 5.

## Mumps

662 cases: Alameda County 1, Alameda 32, Albany 1, Berkeley 7, Hayward 1, Oakland 36, San Leandro 5, Contra Costa County 4, Fresno County 27, Fresno 15, Sanger 16, Humboldt County 1, Kern County 5, Bakersfield 7, Kings County 2, Los Angeles County 36, Alhambra 2, Compton 1, El Monte 1, Glendale 8, Hermosa 1, Long Beach 12, Los Angeles 34, Monrovia 5, Montebello 1, Pomona 21, Redondo 1, San Fernando 4, San Gabriel 1, Santa Monica 3, Madera County 58, Chowchilla 23, Yosemite National Park 1, Mendocino County 15, Merced County 3, Gustine 3, Napa County 10, Calistoga 1, Napa 1, Orange County 6, Anaheim 1, Huntington Beach 1, Santa Ana 1, Sacramento County 2, Sacramento 15, North Sacramento 3, San Diego County 4, National City 1, Oceanside 1, San Diego 19, San Francisco 49, San Joaquin County 6, Stockton 3, San Luis Obispo County 4, Paso Robles 1, Santa Barbara 6, Santa Clara County 27, Mountain View 2, San Jose 32, Santa Cruz 7, Stanislaus County 4, Turlock 11, Tulare County 15, Dinuba 28, Exeter 2, Porterville 2, Ventura County 1, California 2.\*

## Pneumonia (Lobar)

54 cases: Oakland 1, Martinez 1, Bakersfield 1, Los Angeles County 7, El Segundo 1, Glendale 1, Inglewood 1, Los Angeles 22, Madera County 3, Mendocino County 1, Orange County 1,

Huntington Beach 1, San Clemente 1, Sacramento County 2, Sacramento 4, San Diego County 1, San Francisco 3, San Jose 1, Siskiyou County 1.

## Scarlet Fever

207 cases: Alameda County 3, Alameda 3, Berkeley 2, Oakland 5, Contra Costa County 5, Pinole 1, Richmond 3, Fresno County 7, Fresno 1, Reedley 1, Kern County 10, Bakersfield 1, Hanford 3, Susanville 2, Los Angeles County 26, Alhambra 1, Burbank 1, Compton 1, Glendale 5, Huntington Park 1, Inglewood 2, Long Beach 3, Los Angeles 39, Manhattan 1, Monrovia 1, Montebello 2, Pasadena 1, Redondo 4, San Gabriel 1, Santa Monica 3, Torrance 1, South Gate 1, Bell 3, Pacific Grove 1, Orange County 3, Anaheim 1, Brea 1, Santa Ana 2, Riverside County 1, Riverside 1, Sacramento County 5, Sacramento 1, Ontario 1, San Diego County 1, Escondido 1, National City 1, San Diego 3, San Francisco 16, San Joaquin County 4, Stockton 2, Santa Barbara County 1, Santa Barbara 2, Santa Clara County 5, Mountain View 1, Santa Cruz County 1, Shasta County 3, Siskiyou County 1, Stanislaus County 1, Red Bluff 1, Tulare County 1, Santa Paula 1.

## Smallpox

26 cases: Kern County 5, Los Angeles County 1, Alhambra 1, Monterey Park 3, Merced 1, Monterey County 3, Tulare County 7, Dinuba 3, Exeter 2.

## Typhoid Fever

14 cases: Alameda 1, Richmond 1, Calipatria 1, Los Angeles 5, Beaumont 1, San Francisco 1, San Jose 1, California 3.\*

## Whooping Cough

467 cases: Alameda County 13, Alameda 12, Albany 6, Berkeley 17, Oakland 48, Piedmont 8, San Leandro 3, Contra Costa County 1, Antioch 1, Richmond 2, Fresno County 10, Fresno 2, Kern County 2, Bakersfield 1, Taft 1, Susanville 1, Los Angeles County 21, Alhambra 2, Beverly Hills 1, Burbank 2, Claremont 1, Glendale 1, Huntington Park 1, Long Beach 2, Los Angeles 22, Pasadena 6, Pomona 1, San Gabriel 1, Madera County 1, Marin County 3, San Anselmo 2, San Rafael 4, Sausalito 1, Merced County 4, Salinas 3, Napa 1, Orange 3, Santa Ana 3, La Habra 1, Colfax 6, Sacramento County 3, Sacramento 19, San Bernardino 1, San Diego County 19, Chula Vista 20, National City 3, San Diego 19, San Francisco 41, San Joaquin County 23, Lodi 3, Manteca 1, Stockton 24, Burlingame 3, Santa Clara County 22, Palo Alto 2, San Jose 2, Healdsburg 2, Stanislaus County 22, Turlock 5, Trinity County 1, Exeter 1, Fillmore 1, Yolo County 6, Winters 1, California 2.\*

## Meningitis (Epidemic)

4 cases: Oakland 1, Los Angeles County 1, Los Angeles 1, Tustin 1.

## Dysentery (Amoebic)

One case: Contra Costa County.

## Dysentery (Bacillary)

One case: Los Angeles.

## Leprosy

One case: San Francisco.

## Pellagra

4 cases: Glendale 1, Madera County 1, Riverside County 1, Stanislaus County 1.

## Tetanus

One case: Riverside County.

## Trachoma

27 cases: Fresno County 1, Modoc County 1, Alturas 6, Salinas 1, Riverside County 17, Stanislaus County 1.

## Paratyphoid Fever

3 cases: Alhambra 2, Riverside County 1.

## Rabies (Human)

One case: Fresno County.

## Typhus Fever

One case: Los Angeles.

## Botulism

2 cases: Long Beach.

## Jaundice (Epidemic)

One case: Stockton.

## Food Poisoning.

5 cases: Los Angeles County.

## Undulant Fever

3 cases: Fresno County 1, Humboldt County 1, San Diego County 1.

## Coccidioides Granuloma

2 cases: Kern County.

## Septic Sore Throat

2 cases: El Monte 1, Chowchilla 1.

## Rabies (Animal)

53 cases: Colusa County 1, Fresno County 3, Kern County 1, Bakersfield 1, Kings County 3, Los Angeles County 7, Arcadia 1, Glendale 1, Inglewood 1, Los Angeles 12, Santa Monica 1, South Gate 1, Madera County 1, Santa Clara County 8, Mountain View 1, Sunnyvale 2, Stanislaus County 7, California 1.\*

\* Cases charged to "California" represent patients ill before entering the state or those who contracted their illness traveling about the state throughout the incubation period of the disease. These cases are not chargeable to any one locality.